

Notice of Allowability

Application No.

09/125,747

Examiner

Khatol S Shahnan-Shah

Applicant(s)

TOROSSIAN, FERNAND NARBEY

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's amendments and response of 2/9/04.
2. ☒ The allowed claim(s) is/are 17-20 and 23-28, renumbered claims 1-10 respectively.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 6/17/04.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Art Unit: 1645

Attachment to Notice of Allowance

1. Applicants' amendment and response, received 09 February 2004 are acknowledged. The amendment has been entered. Claims 17-28 have been amended. New claim 29 has been added. Specification pages 1, 3, 4, 6, 7, 8, 9, 10, 14, 15, 16, 18 and 19 have been amended.
2. Claims 17-29 are pending.

Rejections Withdrawn

3. Rejection of claims 17-28 under 35 U.S.C. 112, first paragraph made in paragraph 9 of the office action mailed 12/12/2003 is withdrawn in view of applicant's amendments.

Examiner's Amendment

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with John A. Artz (reg # 25,824) on 6/17/2004.

The application has been amended as follows:

Cancel claims 21, 22 and 29.

Insert the following paragraph in page 1 of the specification on the line below the title:

This application is a 371 of PCT/FR97/00334 filed 02/25/1997 which claims priority to the French application number 96 02445 filed 02/26/1996.

Allowable Subject Matter

5. Claims 17-20 and 23-28 are allowed. Claims are renumbered 1-10 respectively.

The following is an examiner's statement of reasons for allowance:

Claims are drawn to an immunomodulatory complex comprising:

- a) ribosomal nucleic acid extracted from bacteria selected from group consisting of:
Helicobacter pylori, *Helicobacter hepaticus*, *Helicobacter, coronari* or a mixture thereof;
- b) the amino acids of type III collagen; and
- c) bacterial membrane fractions containing glycopeptides and/or lipopolysaccharides.

The prior art fails to teach such composition.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

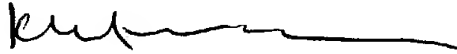
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khatol S Shahnan-Shah whose telephone number is (571)-272-0863. The examiner can normally be reached on 7:30am-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F Smith can be reached on (571)-272-0864. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 1645

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

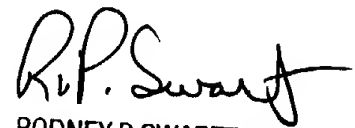


Khatol Shahnan-Shah, BS, Pharm, MS

Biotechnology Patent Examiner

Art Unit 1645

June 18, 2004



RODNEY P. SWARTZ, PH.D.
PRIMARY EXAMINER